

**U.S. Department of Energy
Environmentally Preferable Purchasing
Program Overview**

June 2006

**A
Preferred Procurement Partnership Team
Production**

Preface

Pursuant to the Resource Conservation and Recovery Act Section 6002 and Executive Order 12873 (later superseded by Executive Order 13101), the Department of Energy (DOE) established an *Affirmative Procurement Program (APP) for Products Containing Recovered Materials* in May 1994. This program and corresponding guidance document addressed the affirmative procurement of 5 recycled-content products designated by the U.S. Environmental Protection Agency (EPA) between 1983 and 1989. In May 1995, EPA designated 19 new products, and DOE's guidance document was updated in August 1996, accordingly. In November 1997 and January 2000, EPA designated additional products, bringing the total to 54 products, and, in April 2004, EPA designated 7 new products for a present total of 61 designated recycled-content products

In addition to products with recycled-content, subsequent Acts of Congress and Presidential Executive Orders have designated other product attributes for Federal agencies to prefer in their purchasing of supplies and services. The attributes designated to date are recycled-content, biobased-content, energy/water efficiency, alternate fuels/vehicles, and non-ozone depleting content.

This document, *U.S. Department of Energy Environmentally Preferable Purchasing Program Overview*, hereinafter called the "Overview," addresses those designated products with environmentally preferable attributes as well as other preferable attributes. The Overview supersedes the APP guidance issued in August 1996 and the APP strategy issued November 2000.

Contact: Don Lentzen, Office of Pollution Prevention and Resource Conservation (EH-43), (202) 586-7428 or donald.lentzen@eh.doe.gov

Table of Contents

1.0 Purpose	1
2.0 Environmentally Preferable Purchasing Program	1
2.1 Policy and Guidance	2
2.1.2 Applicability	4
2.1.2.1 Government-Owned, Government-Operated Facilities	5
2.1.2.2 Government-Owned, Contractor-Operated Facilities	5
2.1.2.3 DOE Support Service Contracts Performed at a Federal Facility	5
2.1.3 Roles and Responsibilities	6
2.1.3.1 Federal Environmental Executive	6
2.1.3.2 DOE Roles and Responsibilities	6
2.1.4 Embedding in DOE Site Systems	8
2.1.4.1 Environmental Management System	8
2.1.4.2 Purchasing Systems	9
2.1.5 Specifications Review	10
2.1.6 Life-Cycle Cost Analysis	10
2.1.7 Federal Supply Sources	11
2.1.8 Justification for Not Buying Products with Designated Attributes	11
2.2 Promotion Program	12
2.3 Estimation, Certification, and Verification Program	13
2.4 Annual Review, Monitoring/Tracking, and Reporting Program	14
2.4.1 Monitoring/Tracking	15
2.4.2 Required Reporting	16
2.4.3 Voluntary Reporting	17
2.5 External Reviews/Inspections	18
2.5.1 RCRA Compliance Inspections	18
2.5.2 Inspector General Review	18
2.6 Awards	19
2.7 Checklist for Successful Site EPP Programs	19
3.0 Acronyms	20
4.0 Glossary of Terms	21

1.0 Purpose

Pursuant to Federal statute and Presidential Executive Order, Federal agencies are required to establish Environmentally Preferable Purchasing Programs. This requirement recognizes the Federal government's purchasing power can be used to expand markets for environmentally preferable products having societal and economical benefits such as conservation of natural resources, waste reduction, improved public health, and energy security. In response, it is DOE's policy and long standing practice to purchase designated products containing environmentally preferable attributes to the maximum extent practicable (i.e., when available, affordable and effective).

This Overview of the DOE Environmentally Preferable Purchasing Program serves as guidance to DOE program and field elements on environmentally preferable purchasing (EPP) as an integrated component of environmental management and purchasing systems within DOE. In this Overview, the policies, guides, procedures, roles and responsibilities, and reporting that comprise the EPP Program at DOE are identified and summarized with links to relevant website postings provided.

2.0 Environmentally Preferable Purchasing Program

DOE's EPP Program consists of the following four elements:

- Establish policies including responsibilities and requirements for EPP, and embed in environmental management and purchasing systems
- Promote EPP in the acquisition of supplies and services (guidance/procedures/training, best-practices sharing, and problem solving support)
- Estimation, Certification, and Verification
- Annual EPP review, monitoring, and reporting

2.1 Policy and Guidance

Section 6002 of the Resource Conservation and Recovery Act and Section 9002 of the Farm Security and Rural Investment Act specify that Federal agencies must institute practices and procedures favoring the specification and procurement of recycled content and biobased content products, respectively. Once the U.S. Environmental Protection Agency (in the case of recycled content products) or the U.S. Department of Agriculture (in the case of biobased content products) designates a product, procuring agencies are required to comply within 1 year of the date of designation by purchasing the product with the content specified.

The U.S. Environmental Protection Agency (EPA) has designated recycled content products in the following general product categories:

- Construction Products
- Landscaping Products
- Non-Paper Office Products
- Paper and Paper Products
- Park and Recreation Products
- Transportation Products
- Vehicular Products
- Miscellaneous Products

(See [EPA Comprehensive Procurement Guidelines](#) for information on recycled-content products designated for purchase, recycled-content specifications and percentages, and product suppliers.)

The products the U.S. Department of Agriculture (USDA) designates for purchase with biobased content fall in the following general categories:

- Adhesives
- Construction Materials
- Fibers, Paper, Packaging
- Fuel Additives
- Inks
- Landscaping Materials
- Lubricants and Functional Fluids
- Paints and Coatings
- Plastics
- Solvents and Cleaners
- Sorbents

(See [USDA's Federal Biobased Products Preferred Procurement Program](#) for information on biobased-content designated for purchase, biobased-content specifications and percentages, product suppliers.

The other product attributes designated by Congress which DOE gives procurement preference to are in the general categories of

- [Energy efficient](#)
- [Water efficient](#)
- [Alternative fuels](#)
- [Alternative fuel vehicles](#)
- [Non-ozone depleting](#)

EPP and other preference programs are also promoted through a series of Presidential Executive Orders (EO) imposing requirements on the activities of Federal agencies as follows:

- EO 13101, Greening the Government through Waste Prevention, Recycling and Federal Acquisition;
- EO 13123, Greening the Government through Efficient Energy Management;
- EO 13221, Energy-Efficient Standby Power Devices;
- EO 13148, Greening the Government through Leadership in Environmental Management; and
- EO 13149, Greening the Government Through Federal Fleet and Transportation Efficiency.

[DOE Order 450.1 Chg 2, *Environmental Protection Program*](#) sets forth Departmental policy governing the implementation of sound stewardship practices that are protective of the air, water, land, and other natural resources impacted by DOE operations. EPP is identified as a requirement for DOE elements under the Order. Attachment 3 of the Order establishes Departmental goals, including an EPP goal, and strategies for achieving the goals through integration of pollution prevention into environmental management systems. (See [DOE Guide 450.1-5](#) for implementation guidance on pollution prevention including EPP and environmental management system integration.)

DOE contracting activities and acquisitions of supplies and service are subject to the Federal Acquisition Regulation (FAR) and the Department of Energy Acquisition Regulation (DEAR). The FAR directs agencies to a) implement cost-effective contracting preference programs promoting energy efficiency, water conservation, and the acquisition of environmentally preferable (and other

preferable) products and services and b) employ acquisition strategies that affirmatively implement the following environmental objectives ([FAR 23.703](#)):

- Maximize the use of environmentally preferable products and services including the Affirmative Procurement Program which includes products and services with recovered or biobased content as those products are designated by the EPA or the USDA
- Promote energy-efficiency and water conservation
- Eliminate or reduce the generation of hazardous waste and the need for special material processing (including special handling, storage, treatment, and disposal)
- Promote the use of nonhazardous and recovered materials
- Realize life-cycle cost savings
- Promote cost-effective waste reduction when creating plans, drawings, specifications, standards, and other product descriptions authorizing material substitutions, extensions of shelf-life, and process improvements
- Substitute safe alternatives to ozone-depleting substances (FAR 23.803)

The DEAR establishes departmental acquisition policies which implement and supplement the FAR. Pertinent preferable purchasing-related sections of the [DEAR](#) are:

- DEAR 923 - Environment, Conservation, Occupational Safety, and Drug-Free Workplace
- DEAR 970.2304-2 – Use of Recovered Recycled Materials Contract Clause directing flow down requirements to contractors and sub-contractors
- DEAR 970.2307 - Contracting for Environmentally Preferable and Energy-efficient Products and Services
- DEAR 970.2307-1 - Motor vehicle fleet operations

2.1.2 Applicability

This Overview serves as EPP guidance to:

- All DOE owned facilities including contractor-operated DOE facilities;
- All acquisitions, including micropurchases (at or below \$2500), in which a product with a designated attribute is acquired

- Each designated product for which DOE's total annual purchases exceed \$10,000 in the current fiscal year or exceeded \$10,000 in the previous fiscal year

2.1.2.1 Government-Owned, Government-Operated Facilities

The [DOE Acquisition Guide, Chapter 23 Greening the Government-Environmental Considerations in Acquisition](#) requires each DOE Contracting Activity to designate a Green Acquisition Advocate to serve as a procurement expert and team member for Greening the Government initiatives.

2.1.2.2 Government-Owned, Contractor-Operated Facilities

Most DOE National Laboratories and other DOE-owned facilities are managed by contractors. DOE's facility management contractors procure many products with designated attributes in the course of performing their duties for the Department. For this reason, DOE facility management contractors are included in the DOE EPP Program and must be aware of and comply with these requirements.

[DEAR 970.2304](#) contains the environmental policy statement for facility management contractors and provides for use of the clause at 970.5204-39 in such contracts.

The DEAR also provides for flow down of procurement requirements to subcontractors of the facility management contractors in certain circumstances. To facilitate the flow down, the management contractor should include the designated attributes in its Request for Proposal specifications for construction, remodeling, or other service subcontracts. A worksheet should be submitted by the prospective subcontractor to indicate 1) which products they will acquire with which environmental attributes and 2) whether any products designated for purchase by Congressional laws are justified exceptions (cannot be purchased) because they meet the CAP: Cost unreasonable, not Available, or do not meet Performance requirements. In addition to flowing down the purchasing requirement, the subcontract should also flow down a reporting requirement to match that required of DOE.

2.1.2.3 DOE Support Service Contracts Performed at a Federal Facility

Contractors providing support services within a Government-owned or leased facility must comply with the provisions of EO 13101 pursuant to Section 701 of the Order. The Federal Acquisition Regulation, FAR 23.705, requires the use of the clause at [FAR 52.223-10](#), Waste Reduction Program, in such circumstances.

If the contractor is expected to acquire significant quantities of designated products, the clause at [DEAR 970.5204-39](#), Acquisition and Use of Environmentally Preferable Products and Services, should be used.

The DEAR clause will make the contractor part of the DOE EPP Program and provide for the contractor to report its acquisitions of products with designated attributes as part of the program.

2.1.3 Roles and Responsibilities

EPP roles and responsibilities are designated in the various Congressional laws and Greening the Government Executive Orders. In particular, EO 13101 *Greening the Government through Waste Prevention, Recycling and Federal Acquisition* describes the roles of both the Federal Environmental Executive and the Agency Environmental Executive.

2.1.3.1 Federal Environmental Executive

EO 12873, *Federal Acquisition, Recycling, and Waste Prevention*, established the position of the Federal Environmental Executive in 1993 to oversee implementation of the EO, with the support of staff to be provided by specified Executive Agencies. EO 13101 replaced EO 12873 and continued and expanded the [Federal Environmental Executive's role](#).

The mission of the Federal Environmental Executive is to promote sustainable environmental stewardship throughout the federal government. Sustainable environmental stewardship includes strategies, tools, practices, and approaches that lead to environmental improvement in a manner that is sustainable over time, considers the long term effects as well as the shorter term more immediate effects, and that contributes positively, even if indirectly, to the social and economic condition.

2.1.3.2 DOE Roles and Responsibilities

The DOE [Acquisition Guide \(Chapter 23\)](#) documents the Department's commitment to greening the government requirements in contracting, referencing all of the applicable EOs, the FAR, and the DEAR. The *Acquisition Guide* identifies the organizations within DOE responsible for coordinating the Department's implementation of the Greening the Government EOs:

Office of Environment, Safety, and Health (EH)

- EPP policy, guidance, and performance reporting in the Office of Pollution Prevention and Resource Conservation Policy and Guidance
- Non-Ozone Depleting Substances in the Office of Air, Water And Radiation Policy and Guidance

Office of Energy Efficiency and Renewable Energy (EERE)

- Energy/Water Efficient Products in the Office of the Federal Energy Management Program

- Alternative Fuels/Vehicles in the Office of the FreedomCar and Vehicle Technology

Office of Procurement and Assistance Management (ME)

- Procurement policy and guidance in the Office of Procurement and Assistance Management Policy

Preferred Procurement Partnership

Because the responsibility for coordinating the Department's implementation of the EPP program is spread among multiple offices at DOE Headquarters, staff in each of the offices responsible for a particular preferred product initiated an informal Preferred Procurement Partnership to leverage common efforts and give DOE sites consistent sources of information, such as quarterly teleconferences, on-line performance tracking and reporting tools, EPP website, pollution prevention awards program, identifying purchasers and users (green teams), technology transfer via teleconferences, and technical support for problem solving.

Agency Environmental Executive

Section 301 of EO 13101 requires the designation of an Agency Environmental Executive (AEE) who serves at the Assistant Secretary level or higher and who is responsible for ensuring agency implementation of the EO. The Secretary of Energy designated the Assistant Secretary for Environment, Safety, and Health to be the AEE. The Office Pollution Prevention and Resource Conservation Policy and Guidance (EH-43) and the Office of Procurement and Assistance Policy (ME-61) provide program support at the Headquarters level by developing EPP related guidance and acquisition regulations, providing training, and working with program and procurement officials to increase awareness of and compliance with EPP requirements.

Pollution Prevention Coordinator

EO 13101 requires that Federal agencies designate "Recycling Coordinators" for their facilities. Over the years, the role of the "Recycling Coordinator" has changed; the DOE designation is now "Pollution Prevention Coordinator." The Pollution Prevention Coordinator is responsible for working at a site to embed pollution prevention practices in the site's environmental management system, part of which is environmentally preferable purchasing.

Environmentally Preferable Purchasing Coordinator

Some DOE sites are large enough to require a separate position of Environmentally Preferable Purchasing Coordinator. This person (be they the Pollution Prevention Coordinator or Environmentally Preferable Purchasing

Coordinator) is responsible for overseeing the EPP Program and helping to embed environmentally preferable purchasing in the site's environmental management and purchasing systems, and site-specific acquisition contracts.

Green Acquisition Advocate

In May 2000, DOE established the position of Green Acquisition Advocate (Acquisition Letter AL-2000-03, updated by AL-2002-05, which was replaced by [Chapter 23 of the Acquisition Guide](#)). Each DOE Contracting Activity is to designate an employee to be its Green Acquisition Advocate. The Green Acquisition Advocate is to work with the Pollution Prevention/Environmentally Preferable Purchasing Coordinator to ensure the procurement organization is an informed and supportive team member to implement Greening the Government initiatives. DOE's facility management contractors are encouraged to appoint their own Green Acquisition Advocates as well.

2.1.4 Embedding in DOE Site Systems

EPP should become standard practice among all purchasing entities in any organization—be it purchasing card purchases, purchase requests, purchasing agreements, or contractual purchases. DOE sites should embed the principles and practices of environmentally preferable purchasing in their environmental management and purchasing systems.

2.1.4.1 Environmental Management System

To improve environmental performance in the Government and ensure that Federal agencies integrate environmental accountability into the planning and conduct of operations, the President mandated in EO 13148, *Greening the Government Through Leadership in Environmental Management*, that all appropriate Federal facilities implement environmental management systems by December 2005. An environmental management system (EMS) is a systematic and structured approach for addressing the environmental consequences of an organization's activities, products and services, using a continuous cycle of planning, implementing, evaluating and improving processes, and actions undertaken to achieve environmental goals. Pursuant to Executive and DOE Orders, EMSs have been implemented at over forty sites across the DOE complex.

The first step toward making EPP standard practice is to embed it in the EMS. [DOE Order 450.1 Chg 2, Environmental Protection Program](#) stipulates that an EMS provide for pollution prevention in the planning, execution and evaluation of site operations and activities. Attachment 3 of the Order lays out specific pollution prevention and sustainable environmental stewardship goals including an EPP goal that are to be addressed in the site EMS. Attachment 3 also provides a fairly comprehensive list of strategies for achieving the EPP goal through inclusion in the site EMS as objectives and measurable targets.

For further details on including EPP in your site's EMS, see EPA's [Integrating Green Purchasing into Your Environmental Management System](#), and [DOE Guide 450.1-5 Implementation Guide for Integrating Pollution Prevention into Environmental Management Systems](#).

2.1.4.2 Purchasing Systems

The second step toward making EPP purchasing standard practice is to embed it in your site purchasing systems. Begin by identifying the systems used for specifying and buying products:

- Credit card purchases – Purchasing Agreements
- Purchase requests – Purchase Requisition System
- Statements of Work/Requests for Proposal - Service and Construction Contracts

Build the EPP specifications and reporting requirements into each of these systems. For credit card purchases, establish purchasing agreements with suppliers from whom your staff are allowed to purchase. Such purchasing agreements not only give you best customer pricing but give you the opportunity to specify which environmental attributes certain products must contain if your staff are to purchase them.

For purchase requests (purchases of a value beyond that allowed with a credit card), build into your Purchase Requisition System automatic checks to remind Purchasing Agents of environmental attributes that are desired and those that are required.

Look at your site's upcoming service contracts. If any of them involve products or construction materials, include specifications in your Statements of Work, Requests for Proposal, and resulting contracts that require environmental attributes, especially those required by Congressional laws (biobased/recycled content, energy/water efficient, alternative fuels/vehicles, and non-ozone depleting).

The types of service contracts that might be affected are:

- Cleaning/Janitorial products or service
- Construction services
- Equipment maintenance
- Facility maintenance
- Food service
- Grounds products or service
- Laundry service
- Office product supplies
- Vehicle maintenance

Much of DOE's work is done through sub-contracts. The DEAR ([970.2304-2](#)) specifies that "If the contractor subcontracts a significant portion of the operation of the Government facility which includes the acquisition of products designated in EPA's Comprehensive Procurement Guidelines, the subcontract shall contain a clause substantially the same as that at [48 CFR \(DEAR\) 970.5223-2](#). Examples of such subcontracts would be operation of the facility supply function, construction or remodeling at the facility, or maintenance of the facility motor vehicle fleet."

Flowing down our requirements to purchase products with certain attributes means writing the requirements in our sub-contracts and requiring the sub-contractor to report on the results. Some DOE sites have notified their construction sub-contractors, for instance, of their intent to purchase the most environmentally preferable products and materials available so they can prepare ahead of time to respond to a Request for Proposal specifying biobased carpet, recycled paint, and biobased and recycled insulation, for example.

2.1.5 Specifications Review

An integral part of a preference program for more environmentally preferable products is removing specifications that hinder the purchase of those products (RCRA 6002, EO 13101 Section 501). DOE program elements are responsible for reviewing and revising specifications, product descriptions, and standards during the acquisition planning stage to enhance DOE's procurement of environmentally preferable products. Standards or specifications, unrelated to performance, that present barriers to the procurement of environmentally preferable products should be revised or eliminated when reviewing or drafting procurement specifications.

2.1.6 Life-Cycle Cost Analysis

The Office of Federal Procurement Policy's [Policy Letter 92-4](#) requires Federal agencies to use life-cycle cost analyses, wherever feasible and appropriate, to assist in the selection of products and services. DOE [considers the entire life cycle of a product](#) when deciding which product to purchase.

DOE uses [life-cycle cost analysis](#) to select products. Because the full cost of products with non-environmental attributes often does not hit the budget until long after the product has been purchased, life-cycle cost analysis gives preference to products and materials with more environmental attributes. The product's price is only one part of what the product will truly cost your organization. The cost of staff health while using or working near the product, waste disposal costs, etc.—all need to be calculated into the actual price a product will cost.

2.1.7 Federal Supply Sources

To speed the process of identifying products for your Preference Program, use Federal supply sources. Thousands of environmentally preferable products are available to procuring agencies and their contractors through established Federal supply sources, such as the

- [General Services Administration](#)
- [Defense Energy Support Center](#)
- [Defense Logistics Agency](#)
- [Government Printing Office](#)
- [Javits-Wagner-O'Day \(JWOD\) Program](#)
- [UNICOR Federal Prison Industries](#)

Buying environmentally preferable products from these sources offers the following advantages:

- Products have been competitively bid.
- Products meet or exceed established Federal performance standards.
- Recycled content products must meet the same performance standards as those established for non-recycled content products.
- Products meet or exceed recommended recycled content levels for EPA-designated products.
- EPA-designated products purchased through the General Services Administration (GSA), Defense Logistics Agency (DLA), and Government Printing Office (GPO) do not have to be tracked and reported by DOE because GSA, DLA, and GPO report the totals of products purchased from them.
- Federal supply sources provide independent estimation, certification, and verification of recovered content for EPA-designated products, thereby eliminating the need for procurement originators to track and monitor vendor compliance with affirmative procurement requirements.

2.1.8 Justification for Not Buying Products with Designated Attributes

Two of the products with designated attributes (biobased and recycled content) require exemption reporting. If the products cannot be purchased with the designated attributes, the requirement is to document the reason. The requirement to purchase products designated by EPA with recycled content and designated by USDA with biobased content applies to all purchases, including

those at or below the micropurchase threshold (\$2500), unless one or more of the following justifications apply:

- Product is not available competitively.
- Product is not available within a reasonable period of time.
- Product fails to meet the performance standards set forth in applicable specifications or fails to meet reasonable performance standards.
- Product is only available at an unreasonable price.

A shorthand form of the above is the “CAP: cost, availability, performance.” Written justification is required for those purchases above \$2500, for which a product containing the specified attribute was not purchased. DOE has a [sample form](#) that can be used to satisfy the requirement for written justification. This form, or a site-specific version, must be completed for all purchases of EPA or USDA designated products where the designated content was not obtained AND the total cost is above the micropurchase level. All such forms should be signed by the Green Acquisition Advocate for DOE Contracting Activities. In addition, justification forms should be kept on file for a period of 3 years and be ready for inspection by DOE's Inspector General or by EPA or State regulators.

2.2 Promotion Program

DOE has a Promotion Program to promote environmentally preferable products, especially those with attributes designated by Congress: biobased/recycled content, energy/water efficient, alternative fuels/vehicles, and non-ozone depleting.

Procuring agencies are required to actively promote environmentally preferable products. DOE's promotion program includes

- [Pilot projects](#)
- [Technical support hot line](#) for pilot projects and problem solving
- [Technology transfer](#) between DOE sites to share success stories and lessons learned
- [Teleconferences](#) held quarterly (4th Thursday in January, April, July, and October) for all DOE staff involved in any aspect of specifying and purchasing products
- [Training](#) users, specifiers, and purchasers
- [Website](#) that offers readily accessible information

In implementing its Promotion Program, DOE recognizes it is important to remember that transitioning to new products is difficult. Staff have valid concerns about whether the new product will meet regulations, cost, and performance requirements. DOE promotes the following practices when transitioning to new products:

- Involving the users of the product in the decision-making process
- Conducting all required paper evaluations to ensure the product meets state air emission and waste regulations, ASTM, equipment warranty specifications, etc.
- When feasible, giving users samples of the product to test

2.3 Estimation, Certification, and Verification Program

RCRA Section 6002 requires procuring agencies to obtain estimations and certifications of the recycled content in the products to be supplied under a contract and to verify those certifications. DOE recommends the following procedures for fulfilling estimation, certification, and verification requirements.

- Estimation - DOE's recovered materials content ranges for EPA-designated products should be specified in the statement of work or product description. Vendors responding to bids for EPA-designated products must meet the minimum specified recovered material content level. For example, FAR 52.223-9 provides a clause to be used in contracts which requires the contractor to report on the actual recycled content of the product delivered under the contract.
- Certification - Vendors are responsible for 1) providing written certification to the contracting officer that their products meet the minimum recovered material content levels, 2) maintaining copies of certification documents, and 3) producing copies of the written certification upon request by DOE or its contractors. For example, FAR 52.223-4 provides a certification to be used by the Offeror to certify that they will deliver product with the EPA designated minimum recycled content.
- Verification - DOE and its contractors will verify estimates and certifications through their normal quality control assurance procedures, when the scope or volume of a contract is significant.

Federal supply sources, such as the General Services Administration, the Defense Logistics Agency, and the Government Printing Office have established their own estimation, certification, and verification procedures for EPA-designated products. Therefore, program offices procuring designated products through these supply sources are not required to conduct independent estimation, certification, and verification procedures.

2.4 Annual Review, Monitoring/Tracking, and Reporting Program

In FY2006, the Office of Management and Budget presented Federal agencies with draft [scorecards](#) assessing agency performance in implementing statutory and Executive Order requirements on energy management, transportation/fleet management, and environmental stewardship.

The environmental stewardship scorecard rating is based on whether the Department and its facilities (be they operated by DOE or a contractor)

- Has met all EO 13148 EMS agency-level criteria and facility-level criteria at all appropriate facilities.
- **Has a comprehensive, written green purchasing plan that includes recycled content products, Energy Star/energy efficient products, biobased products, and environmentally preferable products; demonstrates compliance in representative acquisitions; audits compliance annually, and develops corrective action plans to address shortcomings in Green Purchasing preference program.**
- Has implemented a sustainability program for green buildings that at a minimum requires sustainability design principles on all new construction and major renovations and is consistent with EPACT 2005 and EO 13123, and/or is implementing the Memorandum of Understanding (MOU) on Federal Leadership in High Performance and Sustainable Buildings (1/24/06) or equivalent.
- Has implemented a sustainability program for electronic stewardship that at a minimum promotes the purchase, operation, and use of end-of-life management strategies for electronic assets consistent with the MOU on Electronics Stewardship (11/15/04), or Federal Electronics Challenge (FEC) or equivalent.
- Has a comprehensive Compliance Management Plan (CMP) and a CMP implementation strategy in accordance with the President's Management Council (PMC) Compliance Initiative as specified in the memo to agencies dated November 2004.

The rating criteria for the Green Purchasing component of the environmental stewardship scorecard are highlighted in bold above. The criteria are the same as the criteria already incorporated in DOE's Environmentally Preferable Purchasing Program.

For its annual review of the Program, DOE's AEE sends out a [Data Call](#), requesting information on products purchased with environmental attributes and

especially those products DOE is required to report—presently those with recycled content and eventually products designated to have biobased content. Headquarters procurement offices, DOE-managed sites, and contractor-operated sites are required to report on any designated product which DOE as a whole purchases \$10,000 or more of.

When the Data Call closes, DOE compiles the information into an annual [Environmentally Preferable Purchasing-EO13101 Progress Report](#), which is submitted to Office of Management and Budget (OMB), and the FEE.

2.4.1 Monitoring/Tracking

Because of DOE's reporting requirement, Headquarters procurement offices, DOE-managed sites, and contractor-operated sites need to establish monitoring/tracking systems for the products DOE is required to report on, which at the present time is recycled content products.

Tracking the purchase of environmental products is the most difficult part of the job. Tracking is complex because products are purchased using a variety of purchasing systems: purchasing cards, purchase requests, purchasing agreements, sub-contracts, etc. We need to gather data from each of these systems.

To gather data from a sub-contract, the requirement for the sub-contractor to report (what to report and due date) needs to be built into the contract and purchase agreement. According to DEAR 970.2304-2 and 970.5223-2, the requirement to purchase products with recycled content, for example, should flow down in sub-contracts, such as construction or remodeling, maintenance of a motor vehicle fleet, etc.

To gather data from purchasing card and purchase request purchases, we have two possibilities: suppliers can track for you or you can track using your organization's purchasing system software. Both have advantages and disadvantages.

- When suppliers gather the purchasing data, they will capture accurate data but will not be able to capture the CAP: the cost, availability, and performance justified exceptions for why your staff were not able to purchase certain products with the specified attributes. Also, some small businesses are sometimes challenged to track and report each and every product purchased.
- When your organization gathers the purchasing data, you usually can capture the CAP but the data may be unreliable. Typically when the purchaser tracks, it relies on the person (perhaps hundreds of purchase card holders) to reliably denote whether the product they purchased contained the specified attribute or not.

When tracking the justified exception purchases (products your organization was not able to purchase with recycled/biobased content), be sure to document those exceptions. Such documentation might be needed should your site be audited for compliance with environmental purchasing requirements.

2.4.2 Required Reporting

Recycled content products (Resource Conservation and Recovery Act Section 6002, EO 13101) require an annual report of indicator products (one for each product category) to OMB, specifically to the Office of Federal Procurement Policy, which consolidates the information into a biennial report to Congress. DOE compiles the data for the annual report from all DOE sites on the [Environmentally Preferable Purchasing Reporting Website](#)

This reporting requirement for recycled content products applies to:

- All DOE program offices and facilities, contractor-operated DOE facilities, and applicable state and local agencies to whom DOE gives grants
- All acquisitions, including micropurchases (at or below \$2500), in which a product with a designated attribute is acquired
- Each designated product for which DOE's total annual purchases exceed \$10,000 in the current fiscal year or exceeded \$10,000 in the previous fiscal year. DOE considers all of its Federally operated sites and contractor operated sites combined to be a single procuring agency.

Although the requirement is to report indicator products, DOE requests sites to report on all designated recycled products. This information tells DOE the total effort toward purchasing recycled products, identifies where we have obstacles we need to work on, and ensures the sites have the data they need should they be audited by the EPA for compliance with Section 6002 of the Resource Conservation and Recovery Act (RCRA).

The reporting requirements for recycled products are:

- The total dollar value spent on the designated products (both those purchased with and without the recycled content)
- The total dollar value spent on the designated products containing recycled content and the percent success rate
- The total dollar value spent on the designated products that did NOT contain recycled content but that were justified exceptions
- The percent of success with recycled content (the recycled dollar value divided by the total dollar value)
- The percent of success adding in the justified exceptions (the recycled dollar value plus the justified exceptions value divided by the total dollar value)

- Reasons for inability to purchase products without recycled content
- Plan of action for overcoming those obstacles

A template form is available, [Affirmative Procurement Exemption Justification Form](#), to report products over the micropurchase level of \$2500, which could not be purchased with the specified recycled content.

To facilitate compliance with annual reporting requirements, DOE has developed an electronic, web based reporting system: the [Environmentally Preferable Purchasing Reporting System](#). The Environmentally Preferable Purchasing Reporting System is open for annual reporting October 1-December 31. A password is required for data entry. For questions concerning

- Reporting - Donald Lentzen (Tel. 202-586-7428) or Josh Silverman (Tel. 202-586-6535), EH-43
- Passwords and website logistics - P2support@eh.doe.gov

2.4.3 Voluntary Reporting

Although Congress has designated products for purchase with attributes other than recycled content, they do not require reporting. DOE encourages sites to report their successful purchase of them both in the annual EO 13101 report as well as on the DOE Environmentally Preferable Purchasing website for [success stories](#).

Biobased content products (Farm Security and Rural Investment Act of 2002 Section 9002 and EOs 13101 and 13134) will require annual reporting through Office of Management and Budget as the USDA designates products (one year after a product is placed on the USDA Biobased Products List). Presently reporting on biobased product purchases at DOE is voluntary (a way of sharing successes with other DOE sites) and part of the [Environmentally Preferable Purchasing Reporting System](#).

Environmentally preferable products and services (EOs 13101, 13148, 13123, and DOE Order 450.1 Chg 2) require an annual reports on each Federal agency's progress toward meeting the Greening the Government goals in which DOE sites' success in purchasing environmentally preferable products is related. Presently reporting on purchases of products with environmental attributes other than those specifically designated is voluntary (a way of sharing successes with other DOE sites) and part of the [Environmentally Preferable Purchasing System under "Miscellaneous."](#)

Energy efficient and renewable energy products (Energy Policy Act and EOs 13123 and 13221) do not require reporting. However, agencies are required to track and report to Congress and the President their progress toward meeting energy reduction goals. Purchasing energy efficient products is one way agencies can help meet these goals. DOE sites as well as all Federal agencies submit their data to DOE's Federal Energy Management Program for the *Annual*

Report to Congress on Federal Government Energy Management and Conservation Programs.

Fuels/Vehicles - Alternative (Energy Policy Act of 2005 and EO 13149) require reporting to Congress with a copy to DOE headquarters. DOE consolidates the individual agency reports into an annual report to the President. DOE fleets submit their report to DOE-HQ from their individual sites using the [Federal Automotive Statistical Tool \(FAST\)](#).

Non-ozone depleting substances (Clean Air Act Title VI and Executive Order 13148) require no reporting on progress toward meeting requirements.

2.5 External Reviews/Inspections

As with other Federal programs, DOE's EPP Program is open to external reviews and inspections.

2.5.1 RCRA Compliance Inspections

The EPA inspects Federal agencies for compliance in purchasing recycled content products as part of their RCRA audits ([Guidance on Conducting Inspections of Federal Facilities for Compliance with Section 6002 of the Resource Conservation and Recovery Act](#)).

Section 403 of EO 13101 directs EPA to develop guidance for inspections of Federal facilities for compliance with the requirements of RCRA Section 6002. The guidance is to be used by EPA in conducting RCRA inspections or multi-media inspections that include a RCRA component. The Executive Order further directs EPA to encourage states authorized to conduct RCRA inspections to use the guidance and evaluate Federal facility compliance with RCRA Section 6002.

In 1999, EPA began conducting inspections of DOE facilities to evaluate compliance with Section 6002, specifically, the procurement of Comprehensive Procurement Guideline products with recycled content. The inspections have continued over the years, including an inspection of DOE Headquarters. DOE sites may prepare for these inspections by completing the Facilities Questionnaire contained in the EPA Inspection Guidance. DOE sites should also revise their internal environmental compliance assessment programs to include RCRA Section 6002 compliance review protocols.

2.5.2 Inspector General Review

Section 706 of EO 13101 directs the President's Council on Integrity and Efficiency to request that the Inspectors General periodically review agencies' programs and reporting procedures to ensure compliance with the EO.

2.6 Awards

DOE has a Pollution Prevention Awards Program to recognize successful and innovative environmentally preferable (green) purchasing, waste/pollution prevention, reuse and recycling, environmental management systems, sustainable environmental stewardship (green building/green chemistry), and alternate (green) fuel in transportation throughout the Department. A White House Closing the Circle Awards Program for all Federal agencies recognizes outstanding achievements in the same areas.

Nominations for these awards should be submitted on the [Pollution Prevention Awards website](#) by mid December of each year. Instructions concerning the awards process are posted on the awards website.

The DOE Green Purchasing award criteria are the same as the Closing the Circle award criteria. To be considered for the Green Purchasing Award, the organization must have:

- A robust program for purchasing recycled products as well as either biobased products or other environmentally preferable products, especially best examples of acquiring, using, or validating products or services that have a reduced impact on human health and the environment when compared with competing products or services that serve the same purpose
- Outstanding improvement to a process that resulted in significant monetary savings and benefit to the environment or
- Product testing that led to the approval and use of environmentally preferable products or services.

Preference is given for outreach programs/projects or educational efforts designed to promote the environmentally preferable (green) purchasing objectives of EO 13101.

Energy efficiency projects and products should be submitted as [FEMP awards](#).

2.7 Checklist for Successful Site EPP Programs

Successful site programs have both energetic management and staff support. Without both, it is difficult to transition to new products. Once both management and staff are on board, other areas of importance for a successful site program include:

- Establish an effective working partnership between users, specifiers, program and acquisition staff

- Provide training to all staff
 - Establish an effective working partnership with vendors of environmentally preferable products and especially encourage minority/women-owned, historically underutilized businesses to carry such products
 - Be sure EPP requirements are included in the Environmental Management System and all purchasing systems: purchase card, purchasing agreements, purchase request system, statements of work, requests for proposal, contracts and sub-contracts
 - Track site progress towards meeting DOE's environmentally preferable procurement goals
 - Reward and share site successes, or take corrective action, as necessary
 - Report annually on site progress
 - Be prepared for and pass EPA/State RCRA Section 6002 facility compliance inspections and Inspector General reviews
-

3.0 Acronyms

AL	Acquisition Letter
ASTM	American Society for Testing and Materials
CFR	Code of Federal Regulations
CPG	Comprehensive Procurement Guidelines
DEAR	Department of Energy Acquisition Regulation
DLA	Defense Logistics Agency
DOE	Department of Energy
EERE	Office of Energy Efficiency and Renewable Energy
EH	Office of Environment, Safety, and Health
EMS	Environmental Management System
EO	Executive Order
EPA	Environmental Protection Agency
EPP	Environmentally Preferable Purchasing
FAR	Federal Acquisition Regulation
FAST	Federal Automated Statistical Tool
FSRIA	Farm Security and Rural Investment Act of 2002
FTC	Federal Trade Commission
FY	Fiscal Year (October 1 through September 30)

GPO Government Printing Office
GSA General Services Administration
JWOD Javits-Wagner-O'Day
ME Office of Procurement and Assistance Management
OFPP Office of Federal Procurement Policy in the Office of Management and Budget
OMB Office of Management and Budget
RCRA Resource Conservation and Recovery Act of 1976
USDA U.S. Department of Agriculture

4.0 Glossary of Terms

Acquisition -- the acquiring by contract with appropriated funds for supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration and those technical and management functions directly related to the process of fulfilling agency needs by contract (EO 13101).

Affirmative Procurement Program -- a program which ensures that products composed of recovered materials will be purchased to the maximum extent practicable, consistent with Federal law and procurement regulations (RCRA Section 6002)

Biobased Product -- a product "determined by the Secretary [of the U.S. Department of Agriculture] to be a commercial or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products or renewable domestic agricultural materials (including plant, animal, and marine materials) or forestry materials (FSRIA Section 9002)"

Biodegradable -- the ability of a substance to decompose in the natural environment into harmless raw materials. To be truly biodegradable, a substance or material should break down into carbon dioxide (a nutrient for plants), water, and naturally occurring minerals that also do not cause harm to the ecosystem. In terms of environmental benefits, a product should take months or years, and not centuries, to biodegrade. Per the Federal Trade Commission, biodegradable means an "entire product or package will completely break down and return to nature, meaning decompose into elements found in nature within a reasonably short period of time after customary disposal (FTC 1998)."

Certification -- written documentation provided by offerors/bidders/vendors certifying that the percentage of recovered materials contained in products or to be used in the performance of the contract is at least the amount required by applicable specifications or other contractual requirements. Certification on multi-component or multi-material products should verify the percentage of postconsumer waste and recycled material contained in the major constituents of the product (EPA Guidelines).

Comprehensive Procurement Guidelines (CPG) -- regulations issued by the U.S. Environmental Protection Agency pursuant to section 6002 of the Resource Conservation and Recovery Act which (1) identify products that are or can be produced with recovered materials and where procurement of such products will advance the objectives of RCRA; and (2) provide recommended practices for the procurement of such products (RCRA Section 6002, 40 CFR 247)

Cost-Effective Procurement Preference Program -- a program that favors, where price and other factors are equal, the procurement of products and services that are more environmentally sound or energy efficient than other competing products and services (OFPP Policy Letter 92-4)

Environmentally Preferable -- products or services that have a lesser negative effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison should use principles recommended in guidance issued by EPA (see Executive Order 13101, Section 503), and may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product or service (FAR 23.703)

Estimation -- written documentation of the best quantitative determination made by vendors of the total percentage of recovered material contained in products to be supplied to the purchaser. Estimations should be based on historical or actual percentages of recovered materials in products sold in substantial quantities to the general public or on other factual basis. EPA's guidelines recommend that procuring agencies maintain records of these estimates for three years by product type, quantity purchased, and price paid (EPA Guidelines).

Executive Agency or Agency -- an Executive agency as defined in 5 U.S.C 105. For the purpose of this order, military departments, as defined in 5 U.S.C.102, are covered under the auspices of the Department of Defense (EO 13101)

Life-Cycle Analysis -- the comprehensive examination of a product's environmental and economic effects throughout its lifetime including new material extraction, transportation, manufacturing, use, and disposal (EO 13101, OFPP Policy Letter 92-4)

Life-Cycle Cost -- the amortized annual cost of a product, including capital costs, installation costs, operating costs, maintenance costs and disposal costs discounted over the lifetime of the product (EO 13101)

Minimum Content Standard -- the minimum recovered material content specifications which are set in such a way as to ensure that the recovered material content required is the maximum available without jeopardizing the intended end use of the product or violating the limitations of the minimum content standards set forth by EPA's guidelines (RCRA Section 6002)

Performance Specification -- a specification that states the desired operation or function of a product but does not specify the materials from which the product must be constructed (EPA Guidelines)

Post-Consumer Material -- a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer product. "Postconsumer material" is a part of the broader category of "recovered materials (FAR 23.402, EO 13101)."

Practicable -- capable of being used consistent with: performance in accordance with applicable specifications; availability at a reasonable price; availability within a reasonable period of time; and maintenance of a satisfactory level of competition (EPA Guidelines)

Preference -- means when two products or services are equal in performance characteristics and price, the Government, in making purchasing decisions, will favor the product that is more environmentally-sound or energy-efficient (OFPP Policy Letter 92-4, DEAR 923.471)

Preferred Purchasing -- considering attributes designated by Congress: biobased/recycled content, energy/water efficient, alternative fuels/vehicles, non-ozone depleting (DOE terminology)

Procuring Agency -- any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract (EPA Guidelines)

Recovered Material -- waste materials and by-products which have been recovered or diverted from solid waste including postconsumer material, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (FAR 23.402)

Recycled Material -- a material that can be used in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, industrial scrap, agricultural wastes, etc.--all of which can

be used in the manufacture of new products (EPA Guidelines, OFPP Policy Letter 92-4)

Recycling -- the series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products other than fuel for producing heat or power by combustion (FAR 23.703, EO 13101)

Specification -- a clear and accurate description of the technical requirement for materials, products, or services which specifies the minimum requirement for quality and construction of materials and equipment necessary for an acceptable product. In general, specifications are in the form of written descriptions, drawings, prints, commercial designations, industry standards, and other descriptive references (EPA Guidelines).

U.S. Department of Agriculture Designated Product -- a product that is or can be made with biobased materials and is listed by USDA in a procurement guideline (FAR 23.402)

U.S. Environmental Protection Agency Designated Product -- a product that is or can be made with recovered materials and is listed by EPA in a procurement guideline (FAR 23.402)

Verification -- procedures used by procuring agencies to verify vendor estimates and certifications of the percentages of recovered material contained in the products supplied to them or to be used in the performance of a contract (EPA Guidelines)

Virgin Material -- a raw material used in manufacturing that has been mined or harvested and has not yet become a product (EPA Guidelines)
